

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

DERRICK L. SMITH,

Plaintiff,

v.

Case No. 18-cv-1030

**WAUPUN CORRECTIONAL INSTITUTION
STAFF AND ADMINISTRATION,**

Defendant.

ORDER

Plaintiff Derrick L. Smith, who is representing himself, filed a “complaint” (Dkt. No. 1), along with what he entitled an emergency motion for temporary injunctive relief (Dkt. No. 2). Because Smith’s complaint does not comply with Civil L.R. 9(b) (E.D. Wis.) and does not contain specific factual allegations against specific individuals, the court will require him to amend his complaint in order to continue this lawsuit.

Smith’s complaint is a short one-page document that reads more like a letter. The court notes that in the cover letter preceding his “complaint,” Smith states that he would like copies of the prisoner complaint form so that he can file an amended complaint. (Dkt. No. 1-2.) The court will direct the Clerk of Court’s office to send copies

of the prisoner complaint form along with this order. As indicated in a letter already sent to Smith, he also must either pay the \$400 filing fee *or* file a motion to proceed without prepayment of the filing fee, along with a certified six-month trust account statement, by **July 30, 2018**.

In addition, having reviewed Smith's submissions and several of his numerous previous cases, the court will direct Smith to federal pleading requirements. Federal Rule of Civil Procedure 8(a)(2) states that a complaint "must contain . . . a short and plain statement of the claim showing that the pleader is entitled to relief." There is a reason that the rule specifies a "*short and plain*" statement. "Rule 8(a) requires parties to make their pleadings straightforward, so that judges and adverse parties need not try to fish a gold coin from a bucket of mud." *U.S. ex rel. Garst v. Lockheed-Martin Corp.*, 328 F.3d 374, 378 (7th Cir. 2003). Smith cannot make the court "guess what claims [he] intends to assert against which defendants." *Dunigan v. St. Clair Cnty. Jail Med. Staff*, No. 15-CV-487, 2015 WL 2455505, *2 (S.D. Ill. May 22, 2015). When Smith drafts his amended complaint, he is encouraged to be as exact and concise as he can be and consider the following questions: who, specifically, does he believe violated his constitutional rights? What rights were violated? How? When?

The court also reminds Smith that § 1983 is a personal liability statute. Currently, he has listed "Waupun Correctional Institution Prison Staff and Administration" as the

(only) defendant. That is not an appropriate defendant. He must sue the individuals he believes violated his rights, and only those individuals.

The court is enclosing a copy of its complaint form and instructions. Smith should write the word “AMENDED” in front of the word “COMPLAINT” at the top of the first page, and then put the case number for this case—18-cv-1030—in the field for “Case Number.” He must list all of the defendants in the title of the complaint. He must use the spaces on pages two and three, and up to three additional pages, to list all the claims he wishes to bring and to describe which defendants he believes committed the violations that relate to each claim. Smith is cautioned that the amended complaint takes the place of the prior complaint; it must be complete in itself, and should not instruct the court to look back at the prior complaint for reference. *See Duda v. Bd. of Educ. of Franklin Park Pub. Sch. Dist. No. 84*, 133 F.3d 1054, 1056-57 (7th Cir. 1998). If Smith files the amended complaint by the deadline, and either pays the filing fee or submits a petition to proceed without prepayment of the filing fee (and his trust account statement), the court will screen it under 28 U.S.C. § 1915A.

NOW, THEREFORE, IT IS ORDERED that if Smith wishes to continue with this lawsuit, he must submit an amended complaint by **July 30, 2018**, using the enclosed form.

IT IS ALSO ORDERED that Smith either pay the full \$400 filing or file a petition to proceed without prepayment of costs, as well as his six-month certified trust account statement, by **July 30, 2018**.

The Clerk of Court's office is directed to enclose a copy of the prisoner complaint form with this order.

Dated at Milwaukee, Wisconsin this 12th day of July, 2018.


WILLIAM E. DUFFIN
U.S. Magistrate Judge